

## REMARKS

Claims 1, 3-12, and 20-44 are pending prior to entering this amendment. The examiner rejects claims 9, 12, 32 and 35 under 35 U.S.C. 112, second paragraph. The examiner rejects claims 1, 3-12 and 20-44 under 35 U.S.C. 103(a) as unpatentable over Nisbet, et al (US 6,834,304 B1) in view of Tindal (US 2002/0069275 A1). Applicant amends claims 1, 3-12, and 20, 25-27, 29-31, 32-34, and 36-44. Claims 1, 3-12, and 20-44 remain after entering this amendment. Applicant adds no new matter and requests reconsideration.

### Claim Rejections – 35 USC § 112

The examiner rejects claims 9, 12, 32 and 35 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant amends claims 1, 9, 12, 25, 32 and 35, which obviates the examiner's rejections.

### Claim Rejections – 35 USC § 103

The examiner rejects claims 1, 3-12 and 20-44 under 35 U.S.C. 103(a) as being unpatentable over Nisbet in view of Tindal. Applicants respectfully traverse the examiner's rejections.

Claim 1 recites *generating an audit report that includes an identification of the network device configuration associated with hardware device received in the response to the device configuration query, and the health condition identifier associated with the hardware device*. Claims 20, 25, and 36 recite similar limitations.

The examiner appears to allege Nisbet's auditor 26 generating a findings report discloses the recited generating of an audit report. There, however, is no disclosure in Nisbet of the findings report including a health condition identifier associated with Nisbet's SONENT element 22, as the recited health condition identifier is determined according to a response to a (second) status query. Since the examiner concedes that Nisbet does not teach or suggest transmitting or receiving any second query when generating its findings report, Nisbet's findings report cannot include the recited health condition identifier generated according to the second query. Put differently, Nisbet's finding report does not include any information derived from a response to a query that it did not send.

Nothing in Tindal cures this deficiency, as Tindal's policy manager 170 and action manager 185 resolve network problems (with an alleged second or subsequent query) after the health manager 180 models the network health and publishes the network problems (which the examiner appears to allege discloses the recited audit report). Tindal paragraph [0042]. In other words, since Tindal's alleged second or subsequent query occurs after the generation of the recited audit report, any information received from the alleged second or subsequent query cannot be included in the recited audit report as the amended claims require. Nisbet and Tindal, therefore, do not anticipate claims 1, 20, 25, and 36, or their corresponding dependent claims.

Claim 1 further recites *transmitting at least one status query to the hardware device responsive to the response to the device configuration query, the status query formatted according to at least one of the network device types associated with the hardware device identified in the response to the device configuration query and receiving a response to the status query that includes status information associated with the hardware device*. Claims 20, 25, and 36 recite similar limitations.

Applicant agrees with the examiner that Nisbet does not teach or suggest transmitting multiple queries to generate a findings report. The examiner, however, alleges Tindal's policy manager 170 and action manager 185 disclose the recited transmitting a status query. There, however, is no disclosure in Tindal of the policy manager 170 or the action manager 185 formatting the status query according to any information *identified in the response to the device configuration query*, much less according to the recited network device types associated with the hardware device. See Tindal, paragraph [0055], where Tindal teaches generating its device-specific codes from a configuration record retrieved from a directory 165, not an earlier query to the recited hardware device as the claims require. Nisbet and Tindal, therefore, do not anticipate claims 1, 20, 25, and 36, or their corresponding dependent claims.

Claim 10 recites a *device configuration query requests information related to the part number and location in said optical network of said hardware device*. Claims 33 and 43 recite similar limitations. There is no disclosure in Nisbet or Tindal of a query requesting a part number of the recited hardware device. The examiner identifies a section in Nisbet that discloses its findings report including an address associated with the SONET element 22, which is distinctly different than the recited part number. Furthermore, the presence of this information in a findings report does not teach or suggest that a query to the SONET element 22 *requests*


*information related to the part number and location in said optical network of said hardware device* as the claims require. Nisbet therefore does not anticipate claims 10, 33, and 43.

### CONCLUSION

For the foregoing reasons, reconsideration and allowance of all claims of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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